

**DELEGATION OF AUTHORITY**

**DATE:** November 26, 2002

**SAFE DRINKING WATER ACT**

**9-67. Drinking Water State Revolving Fund (DWSRF) Program**

**1. PURPOSE AND LEGAL AUTHORITY.**

A. Purpose. To redelegate the authorities contained in Delegation 9-67 issued by EPA Headquarters on February 14, 2000.

B. Authority. Pursuant to Sections 1419, 1420 and 1452 of the Safe Drinking Water Act (SDWA), as amended, to:

(1) approve and amend capitalization grant agreements to States and grants to Indian Tribes, for drinking water infrastructure needs, as authorized by Section 1452.

(2) Make determinations annually on a fiscal year basis to withhold a certain percentage of each capitalization grant, in accordance with Sections 1420(a), 1420(c) and 1452(a)(1)(G)(i), made to a State if it has not:

(a) developed and is implementing a program to ensure demonstration of technical, managerial, and financial capacity by new community and nontransient, noncommunity water systems; and

(b) developed and is implementing a strategy to assist public water systems in acquiring and maintaining the technical, managerial, and financial capacity to comply with the Act.

(3) Make determinations to withhold 20% of a State's capitalization grant, in accordance with Sections 1419(b) and 1452(a)(1)(G)(ii), made to a State if it has not adopted and is implementing a program for the certification of operators of community and nontransient, noncommunity public water systems that meets the requirements of guidelines published pursuant to Section 1419(a) or meets the requirements of Section 1419(c).

**2. TO WHOM DELEGATED.**

A. The authority to approve the initial grant agreement in each State, under 1.B.(1) above, remains with the Regional Administrator.

B. The authority to approve and amend subsequent grant agreements and amendments to the initial grant agreement is delegated to the Directors, Office of Ecosystem Protection (OEP) and Office of Site Remediation and Restoration (OSRR), who may exercise this authority independently.

**DELEGATION OF AUTHORITY**

**DATE:** November 26, 2002

**SAFE DRINKING WATER ACT**

9-67. Drinking Water State Revolving Fund (DWSRF) Program (cont'd)

**TO WHOM DELEGATED CONT'D.**

C. The authority to approve all grants to Native American Tribes, under 1.B.(1) and the authorities under 1.B.(2) and 1.B.(3) are delegated to the Director, OEP.

3. **REDELEGATION AUTHORITY.** This authority may not be redelegated.

4. **LIMITATIONS.**

A. To achieve national consistency in withholding decisions under 1.B.(2), the Director, OEP is to make withholding decisions, in accordance with the guidance published under Sections 1420(d)(4) and 1452(g)(3) and must seek concurrence from the Assistant Administrator, Office of Water (OW) on:

(1) the decision on the first State new systems program submitted under Section 1420(a) in each Region, and all decisions to withhold funds; and

(2) the decision on the first capacity development strategy submitted under Section 1420(c) in each Region, and all decisions to withhold funds.

B. To achieve national consistency in withholding decisions under 1.B.(3), the Director, OEP, is to make withholding decisions, in accordance with the guidance published under Sections 1419(a) and 1452(g)(3) and must seek concurrence from the Assistant Administrator, OW, on:

(1) the decision on one State operator certification program submitted under Section 1419(b) in each Region, and all decisions to withhold funds;

(2) the decision on any State operator certification program submitted under Section 1419(c) (programs submitted as "equivalent") in each Region, and all decisions to withhold funds.

C. Withholdings under 1.B.(2) and 1.B.(3) do not apply to Native American Tribes, the Virgin Islands, the Northern Mariana Islands, Guam, American Samoa, and the Trust Territory of the Pacific Islands.

D. For concurrence under 1.B.(1) the Regional Administrator, and/or his/her delegatee, shall obtain the concurrence of the Director, Office of Ground Water and Drinking Water, for the following:

(1) In those cases where a state capitalization grant applicant requests an exception to

9-67. Drinking Water State Revolving Fund (DWSRF) Program (cont'd)

DELEGATION OF AUTHORITY

DATE: November 26, 2002

SAFE DRINKING WATER ACT

cash draw procedures related to aggressive leveraging proposals or other cases which would involve the draw of cash at a more accelerated rate than specified in the DWSRF Guidelines and Regulations; and

(2) for approval of any capitalization grants where the DWSRF will be used to generate payments for state match bonds. However, this concurrence is not required if concurrence was given for such use on a previous capitalization grant and there are no changes to the structure of the program.

5. ADDITIONAL REFERENCES.

- A. 40 CFR Parts 30, 31, 32, 141 and 142.
- B. EPA Delegation 1-14, *Assistance Agreements*.
- C. Region 1 Delegation 1-14, *Assistance Agreements*.
- D. EPA *Assistance Administration Manual*.
- E. EPA Guidance on Implementing the Capacity Development Provisions of the Safe Drinking Water Act Amendments of 1996.
- F. EPA Guidelines for the Certification and Recertification of the Operators of Community and Nontransient Noncommunity Public Water Systems.
- G. EPA DWSRF Program Guidelines and additional regulations and guidance for the Program.

6. SUPERSESSSION. Region 1 Delegation 9-67, dated December 12, 2000.

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Robert W. Varney  
Regional Administrator

11/26/02  
Date